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VIDEO SOFTWARE DEALERS ASSOCIATION
and ENTERTAINMENT SOFTWARE ASSOCIATION

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VIDEO SOFTWARE DEALERS
ASSOCIATION and ENTERTAINMENT
SOFTWARE ASSOCIATION,

Plaintiffs,

vs.

ARNOLD SCHWARZENEGGER, in his official
capacity as Governor of the State of California;
BILL LOCKYER, in his official capacity as
Attorney General of the State of California;
GEORGE KENNEDY, in his official capacity as
Santa Clara County District Attorney, RICHARD
DOYLE, in his official capacity as City Attorney
for the City of San Jose, and ANN MILLER
RAVEL, in her official capacity as County
Counsel for the County of Santa Clara,

Defendants.

CASE NO. C 05-4188 RMW (RS)

DECLARATION OF ETHAN D. DETTMER
IN SUPPORT OF STIPULATED REQUEST
TO CHANGE TIME IN CONNECTION
WITH MOTION TO STRIKE
[Civ. L. R. 6-2, 7-12]

1 I, Ethan D. Dettmer, declare and state as follows:

2 1. I am an attorney at law and a member of the Bar of this Court. I am an associate with
3 the law firm Gibson, Dunn & Crutcher LLP, and one of the attorneys representing the plaintiffs in
4 this matter, Video Software Dealers Association (“VSDA”) and Entertainment Software
5 Association (“ESA”). I make this declaration of my own personal knowledge.
6

7 2. On April 19, 2006, *amicus curiae* Common Sense Media (“CSM”), filed a brief in
8 opposition to the motion for summary judgment filed by VSDA and ESA, along with a number of
9 supporting declarations. VSDA and ESA are filing, concurrently with this declaration, a motion
10 to strike the brief and declarations filed by CSM.
11

12 3. On April 24, 2006, I called Francine T. Radford of the firm Goodin, MacBride,
13 Squeri, Ritchie & Day, LLP, one of the attorneys representing CSM in connection with its brief in
14 this matter. With me on the phone with Ms. Radford was Duane Pozza of the Jenner & Block
15 firm.
16

17 4. On our April 24 telephone call, I informed Ms. Radford of our intention to file a
18 motion to strike CSM’s brief and supporting papers. I asked her if CSM would stipulate to
19 shortened time for this motion to strike, so that it could be heard concurrently with the pending
20 motions for summary judgment. Ms. Radford indicated that this would not be a problem.
21

22 5. We then discussed a briefing schedule in connection with the motion to strike, and Ms.
23 Radford indicated that they could file their opposition to the motion to strike by May 3, 2006.
24

25 6. The reason for this requested relief is that the motion to strike that VSDA and ESA are
26 filing cannot have any possible effect unless it is heard before, or concurrently with, the
27 underlying motion for summary judgment. Given that CSM’s brief and supporting papers were
28 filed less than 35 days before the scheduled hearing on the motion for summary judgment, this
motion cannot be heard in a timely fashion without the requested relief.

7. Defendant Ann Miller Ravel, in her official capacity as County Counsel for the County of Santa Clara, previously requested that the Court continue the hearing date on the motion for preliminary injunction filed by VSDA and ESA. The Court continued that hearing date from December 2 to December 9, 2005 (*see* Dkt. No. 29).

8. On November 21, 2005, this Court signed a stipulated request to extend the time to answer the complaint in this matter for defendant Richard Doyle, in his official capacity as San Jose City Attorney (*see* Dkt. No. 39).

9. The time modification requested by this stipulation, if granted, would have no effect on the overall schedule of this case.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed this 24th day of April, 2006, at San Francisco, California.

/s/
Ethan D. Dettmer